

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

ROBERT DUFF

Plaintiff

v.

WAL-MART STORES EAST, LP

Defendant

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CIVIL ACTION NO.

JURY TRIAL DEMANDED

CIVIL ACTION COMPLAINT AND JURY DEMAND

I. PARTIES

1. Plaintiff, Robert Duff, is an adult individual and citizen of the State of New Jersey residing therein at 316 Oklahoma Avenue, Williamstown, NJ 08094.

2. Defendant, Wal-Mart Stores East, LP, was and is now a business entity, believed to be a limited partnership, duly organized and existing under and by virtue of the laws of the State of Delaware, with a principal place of business located at 702 SW 8th Street, Bentonville, AR 72716.

3. On or about December 12, 2014, Defendant owned, operated, controlled, leased, inspected, possessed, managed and maintained the retail store premises known as Wal-Mart, located at 3501 Route 42 Turnersville, NJ 08012.

4. On or about December 12, 2014, and for a long time prior thereto, it was the duty of the Defendant to keep and maintain the aforesaid premises located at 3501 Route 42 Turnersville, NJ 08012 in a reasonably safe condition for persons lawfully upon the premises, such as the Plaintiff, Robert Duff.

5. At all times material herein, the Defendant acted by and through its agents, servants, employees, workmen and/or other representatives, who were, in turn, acting within the course and scope of their employment, agency and/or service for the same and under the direct control of the Defendant.

II. JURISDICTION AND VENUE

6. Jurisdiction is conferred upon this Court by virtue of the parties' diversity of citizenship pursuant to 28 U.S.C. § 1332.

7. The amount in controversy in this action is in excess of Seventy-Five Thousand Dollars (\$75,000.00), exclusive of costs and fees.

8. Venue is proper in this district pursuant to 28 U.S.C. § 1391 because a substantial part of the events and/or omissions giving rise to Plaintiff's claims occurred within the district.

III. STATEMENT OF CLAIMS

10. On or about December 12, 2014, Plaintiff, Robert Duff, was walking in the automotive department of the aforesaid retail store premises located at 3501 Route 42 Turnersville, NJ 08012, when, suddenly and without warning, and as a direct result of a defective and/or dangerous condition upon said premises, Plaintiff's feet became caught in a fishing line and Plaintiff's body twisted and jerked forward, thereby causing the Plaintiff to sustain various severe and permanent bodily injuries and losses as more fully set forth below.

11. The incident described in the preceding paragraphs of this Complaint was caused by the negligence and carelessness of the Defendant in the following particular respects:

- (a) carelessly and negligently allowing the aforesaid premises to exist in a dangerous condition for a prolonged period of time so as to cause injury to the Plaintiff;

- (b) carelessly and negligently failing to inspect the premises in such a manner so as to identify defects and prevent potential bodily injury to third parties such as the Plaintiff;
- (c) carelessly and negligently failing to recognize the defect which caused the aforesaid fishing line to remain on the floor of the Defendant's premises and failing to timely remedy same;
- (d) carelessly and negligently creating and allowing a dangerous condition to exist by failing to provide proper safety and operational instructions to workers at its aforesaid premises regarding routine inspections and maintenance of its store;
- (e) carelessly and negligently failing to ensure that the Defendant's aforesaid premises could be traversed in a manner which would not cause a danger to potential third parties, such as the Plaintiff;
- (f) carelessly and negligently failing to adequately and timely repair defects to said premises;
- (g) carelessly and negligently failing to correct a dangerous and hazardous condition of which Defendant was aware or should have been aware;
- (h) failing to warn persons lawfully upon the Defendant's premises, such as the Plaintiff, of the aforesaid dangerous condition;
- (i) otherwise failing to provide a safe place for persons lawfully upon the Defendant's premises, such as the Plaintiff, to conduct their business;

12. Plaintiff, Robert Duff, in no manner contributed to his injuries, which were the direct and proximate result of the Defendant's own negligence and/or carelessness.

13. As a result of the aforesaid negligence of the Defendant, Plaintiff, Robert Duff, suffered severe injuries, including, but not limited to, disc herniation at T11-12, T12-L1, L4-5, and L5-S1, disc bulging at L2-3 and L3-4, post-traumatic lumbago, post-traumatic lumbar facet syndrome, lumbar radiculopathy, and lumbar spinal stenosis, as well as aches, pains, mental anxiety and anguish, and a severe shock to his entire nervous system. Plaintiff has in the past and will in the future undergo severe pain and suffering as a result of which he has in the past

and will in the future be unable to engage in his usual activities, all to his great detriment and loss.

14. As a result of the aforesaid negligence of the Defendant, Plaintiff has been and will be obliged to receive and undergo medical attention and care and to expend various sums for the treatment of his injuries and incur such expenditures for an indefinite time in the future.

15. As a further result of the aforesaid accident, Plaintiff, Robert Duff, has in the past and may in the future suffer a loss of his earnings and/or earning power, and he may incur such loss for an indefinite period in the future.

16. Further, by reason of the aforesaid occurrence, Plaintiff has and/or may hereinafter incur other financial expenses all in an effort to treat and cure himself of the injuries sustained in the aforesaid accident.

17. As a further result of this accident, Plaintiff has or may have suffered injuries resulting in the serious and/or permanent loss of use of a bodily function, dismemberment, and/or scarring, which may be in full or part cosmetic disfigurements which are or may be permanent, irreparable and severe.

18. As a further result of this accident, Plaintiff has suffered a loss of the enjoyment of his usual duties, avocations, life's pleasures and activities, and the shortening of his life expectancy, all to his great detriment and loss.

19. As a further result of the aforesaid accident, Plaintiff has suffered great and unremitting physical pain, suffering and mental anguish, embarrassment and humiliation, and scarring, all of which may continue in the future.

WHEREFORE, Plaintiff, Robert Duff, demands judgment against the Defendant, Wal-Mart Stores East, LP, in the amount of his damages, together with attorney's fees, interests and costs of suit.

JURY DEMAND

Plaintiff hereby demands trial by jury on all claims and issues.

Respectfully submitted,

SWARTZ CULLETON PC

By:

A handwritten signature in black ink, appearing to read "Chris Culleton", with a long horizontal flourish extending to the right.

Christopher J. Culleton, Esquire
Joseph P. Guzzardo, Esquire
547 E. Washington Avenue
Newtown, PA 18940
T: (215) 550-6553
F: (215) 550-6557
Attorneys for Plaintiff,
Robert Duff

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